

REMARKS

Reconsideration of the rejections is respectfully requested.

Claims 1-3, 5-17 and 19 have been rejected in the above-identified Office Action. Claims 1, 3, 9-12, 16, 17 and 19 have been amended. All amendments are fully supported by the specification and figures. Accordingly, claims 1-3, 5-17 and 19 are pending in the application.

AMENDMENTS

Support for the amendment “login, by a user” is found at least in paragraphs 19, 28, 36, and 37 and in Figures 3 and 6. Support for the amendment “the user account being accessible from the wireless communication apparatus and from another computing device of the user” may be found at least in Figures 4 and 6 and in paragraphs 35 and 37-39 of Applicants’ Specification. (See also paragraph 22, describing client device 200 of Figure 1 as “a plurality of client devices 200” in connection with backup server 150.) Support for “backup server determines that said hash value is not present on said backup server” may be found at least in Figure 3 and in paragraph 32. Support for “the backup server being configured to store the data, to associate the data with said user account, and to provide the data to said another computing device” may be found at least in Figures 6 and 7 and in paragraphs 37-41.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In “Claim Rejections – 35 USC § 103,” item 3 on page 2 of the above-identified FOA, claims 1-3, 5-17 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0156921 to *Dutta et al.* (hereinafter *Dutta*) in view of U.S. Patent No. 6,865,655 to *Andersen* (hereinafter *Andersen*).

More specifically, the Examiner cited a number of figures and passages of *Dutta* as teaching most of the recitations of claim 1. Those figures and passages describe a system

and method for backing up data from a mobile device using a process driven by a backup server. The backup server pushes a backup request to a client through a proxy/gateway and provides an application to the client that the client uses to send data to the backup server.

Andersen was cited in the FOA for teaching “determining if there is a data portion for backup and a mechanism for transferring contents for backup if the system does not already have a copy” and “recognition of the contents through a hash value or other unique identifier that identifies the contents to be evaluated” (FOA, page 4). Andersen teaches a client providing backup data to a backup server only if the server lacks the data. In the passages cited, the client assigns a hash value to data, searches a local catalog that lists data stored on the backup server to locate the data, and provides the hash value of unlisted data to the backup server. The backup server determines whether it already stores that hash value and communicates to the client that the data is already present (client adds the hash value to the catalog) or not present (client provides the data to the backup server and adds it to the catalog), as shown in Figures 5 and 6. To restore the data, the client searches the catalog and retrieves a key associated with the hash value (Figures 3 and 8), provides the key to the backup server, and receives the data from the backup server.

Claims 1-10 and 12-15

While Applicants respectfully disagree with the rejections made in the FOA, Applicants have amended the claims without prejudice to advance prosecution. As amended, claim 1 now recites:

A wireless communication apparatus having
a processor; and
a memory comprising computer executable instructions which, when executed
are operative to:

facilitate login, by a user, to a user account at a backup server, the user
account being accessible from the wireless communication apparatus as well
as from another computing device of the user;

facilitate designation of data on the wireless communication apparatus to backup;

generate a hash value for said data;

communicate said hash value to the backup server to enable said backup server to determine whether said data is already available to said backup server or not; and

only if said backup server determines that said data is not already available to said backup server, send said data to said backup server, the backup server being configured to store the data, to associate the data with said user account, and to provide the data to the another computing device.

Neither Dutta nor Andersen describes any login process by a user. In fact, Dutta teaches away from the present invention,. Dutta discloses backup methods that explicitly do not require user intervention such as a “login, by a user, to a user account at a backup server.” (See paragraph [0031]: “All of this is performed *without notification of or action on the part of the user* and may be performed during times when the wireless device is idle or using unused extra bandwidth during times when the wireless device is in use. Thus, the present invention provides cell phone and other wireless device users a painless and effortless mechanism for protecting valuable information and *does not require user intervention.*”)

Nor does Dutta teach “a user account at a backup server.” Of the sections of Dutta cited in the FOA for teaching “login to a user account at a backup server,” only one section mentions a backup server. That passage teaches that it is the backup server that initiates the backup process by pushing a transmit request to the client device (Dutta, Paragraph [0007]). Initiation of a backup process by the backup server does not suggest a login to a user account, or even a user account at a backup server; it merely suggests that no action is required by the user and/or user device. The remaining sections cited refer to Figure 1 and disclose the connection of an IP network 102 to a LAN/WAN 104 via a proxy server 106, the connection of a cellular network 112 to an IP network 102 via a gateway 114, and a wireless application protocol (WAP) that is used by wireless devices for communicating with a cellular network

(paragraphs [0017]-[0020], [0022] and [0023]. Even if one of these entities required the establishment of a user account (which Dutta does not disclose), it would not be a user account at a backup server, because these entities are not backup servers (see Figure 1, Data Backup Server 170 is a separate entity). Therefore, Dutta cannot teach or suggest “login, by a user, to a user account at a backup server.”

Andersen cannot cure the deficiencies of Dutta with respect to this recitation, because Anderson does not teach either a user account at a backup server or a login by a user. Therefore, the combination of Dutta and Andersen fails to teach or suggest the recitations of claim 1, that are user account centric. Should the rejection be maintained as to this portion of claim 1, Applicants respectfully request that the Examiner provide, for the prosecution record, a clear explanation of the rationale behind the citation of these passages for teaching/suggesting this portion of claim 1 as required by MPEP 707.07f.

In addition, neither Dutta nor Andersen discloses a backup server “configured to provide backup data from a wireless device to another computing device of the user” or “the user account being accessible from the wireless communication apparatus as well as from another computing device of the user.” The systems of both Dutta and Andersen are device-based, rather than user account-based, with no disclosure of two user devices being associated with a user account. And as discussed above, neither reference discloses a user account as recited in claim 1. Nor is there any teaching or suggestion in either reference that a backup server may backup data from one device (such as a mobile communication device) and restore the data to another (such as a computing device). In fact, Andersen teaches away from this recitation, because Andersen discloses restoring only the data listed in the local catalog of the client. Therefore, in Andersen’s system, data cannot be restored to a device unless it has previously been stored there.

For at least the above reasons, claim 1, as amended, is patentable over Dutta and Andersen.

Claim 12 is directed to a method of claim 1, and recites similar elements. Accordingly, for at least the same reasons, claim 12 is also patentable over Dutta and Andersen.

Claims 2, 3, 5-10 and 13-15 depend from claims 1 and 12, incorporating their recitations. Thus, for at least the same reasons, claims 2, 3, 5-10, and 13-15 are patentable over Dutta and Andersen.

Claims 11, 16, 17, and 19

Applicants respectfully disagree with the Examiner's rejection of claims 11, 16, 17 and 19 for the reasons stated in Applicants' previous reply. However, Applicants have nonetheless amended claims 11, 16 and 17 without prejudice to further prosecution. These claims have been amended to include the recitation "a user account of a backup server." As discussed above, neither Dutta nor Andersen teaches or suggests this feature.

Accordingly, for at least the above reasons, claims 11, 16 and 17 are patentable over Dutta and Andersen.

Claim 19 depends from claim 17, incorporating its recitations. Thus, for at least the same reasons, claim 19 is patentable over Dutta and Andersen.

CONCLUSION

In view of the foregoing, reconsideration and allowance of all pending claims is respectfully solicited.

If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1513. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

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by: /Jo Ann Schmidt/
Jo Ann Schmidt
Reg. No.: 62,255

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981